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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,164	05/11/2007	Olivier Colle	71247-0056	6819
22902 7590 10/14/2008 CLARK & BRODY 1090 VERMONT AVENUE, NW SUITE 250 WASHINGTON, DC 20005				
EXAMINER				
SLOMSKI, REBECCA				
ART UNIT		PAPER NUMBER		
2877				
MAIL DATE		DELIVERY MODE		
10/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/575,164

**Applicant(s)**

COLLE, OLIVIER

**Examiner**

REBECCA C. SLOMSKI

**Art Unit**

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04/10/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS-100)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 05/11/07.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. Regarding claim 11, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by

Horst DE 29907762.

2. With respect to claims 1 and 7, Horst discloses a device for examining defects on the surface of containers comprising:
- An illumination of the surface to be inspected using a lighting system presenting an axis of revolution that is located in the extension of the axis of revolution of the receptacle, and that includes at least three given radiation spectra (Page 4, last paragraph, Figure 1)
  - Formation of image of the surface to be inspected using a camera (Page 5, second paragraph)
  - Analysis of the image formed with a view to checking the characteristics of the surface to be inspected (Page 5, second paragraph, Page 6, second paragraph)
  - Illuminating at least three angular sectors, each emitting a given radiation spectrum that is separate from all the spectra of the other sectors (Page 4, last paragraph)
  - Forming an image for each angular sector of the surface to be inspected sectors by selecting only the light rays returned by the surface to be inspected and presenting one of the said given radiation spectra so as to eliminate the parasitic light rays whose radiation spectrum does not correspond to that

selected for the said angular sector (Page 3, first paragraph, Page 6, last paragraph)

3. With respect to claims **2, 3, 8 and 9**, Horst discloses all of the limitations as applied to claim 1 above. In addition, Horst discloses:
  - Forming an image for each angular sector sectors of the surface to be inspected by selecting only the light rays returned by the surface and coming from an angular sector of the lighting system located on the same side/opposite side as the said angular sector of the surface to be inspected (Figure 1, Figure 5)
4. With respect to claim **5**, Horst discloses all of the limitations as applied to claim 1 above. In addition, Horst discloses:
  - Illuminating by means of radiation spectra that are each of a given color (Page 4, last paragraph)
5. With respect to claim **6**, Horst discloses all of the limitations as applied to claim 1 above. In addition, Horst discloses:
  - Analyzing the image formed in order to determine the flashing or surface faults of the finish of a receptacle (Page 2, second paragraph)
6. With respect to claim **11**, Horst discloses all of the limitations as applied to claim 8 above. In addition, Horst discloses:

- A series of elementary light sources, such as electroluminescent diodes, divided over at least three angular sectors and emitting a light spectrum that is different for each angular sector (Page 4, last paragraph)
7. With respect to claim 12, Horst discloses all of the limitations as applied to claim 7 above. In addition, Horst discloses:
- A series of at least three filters interposed between the camera and the surface to be inspected each lying on an angular sector and each filter presenting a given transmission separate from that of the other filters (Page 5, second paragraph)
8. With respect to claim 13, Horst discloses all of the limitations as applied to claim 1 above. In addition, Horst discloses:
- Resources for processing the signals delivered by a colour camera so as to obtain for each angular sector of the surface to be inspected a signal that is representative of a given radiation spectrum (Page 5, second paragraph)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horst DE 29907762.

9. With respect to claim 10, Horst discloses all of the limitations as applied to claim 7 above. However, Horst fails to disclose using filters and an annular source to create different transmission spectra.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use filters in front a single light source rather than separate LEDs as in Horst since this is well known in the art (as evidenced by US Patents 5486693 and 5536935). It would be desirable to use a single annular source with various filters in order to enable the inspection spectra to change more easily and to ensure constant intensity across all spectra, decreasing the error in comparison measurements.

#### ***Citation***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Heckrodt U.S. Patent #3,980890 discloses optical thickness detecting through the use of many angles
- Novini U.S. Patent #5,095204 discloses separate angular areas for inspection of transparent containers

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REBECCA C. SLOMSKI whose telephone number is (571)272-9787. The examiner can normally be reached on Monday through Thursday, 7:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on 571-272-2059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. G. Lauchman/  
Primary Examiner, Art Unit 2877

Rebecca C. Slomski  
Patent Examiner

rCS